

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

---

SENDERO HEALTH PLANS, INC,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

---

Case No. 17-2048C

Judge Matthew H. Solomson

**JOINT STATUS REPORT AND MOTION TO CONTINUE STAY**

Pursuant to the Court’s Status Report Orders of July 25, 2022 and October 24, 2022, the parties respectfully submit this Joint Status Report. The October 24 order continued the stay in these proceedings and the July 25 order directed the parties to file a joint status report proposing further proceedings by January 27, 2023.

In July 2021, shortly after the U.S. Supreme Court denied the petition for writ of certiorari (No. 20-1162) and the Government’s conditional cross-petition (No. 20-1432) in *Maine Community Health Options v. United States*, which sought review of the Federal Circuit’s CSR decision in *Community Health Choice, Inc. v. United States*, Nos. 2019-1633, -2102, 2020 WL 4723757 (Fed. Cir. Aug. 14, 2020), the parties began discussions regarding the next steps in this litigation. Several different attorneys, collectively representing a large number of plaintiff health plans—including the plaintiff here—engaged Government counsel in discussions regarding potential resolution of the CSR matters through settlement.

On December 3, 2021, Plaintiffs’ counsel shared a proposal with the Government to

attempt to collectively resolve the damages and mitigation issues in the CSR cases without further litigation or to significantly streamline resolution of the remaining damages/mitigation issues in these cases. On April 28, 2022, the Government responded to Plaintiffs' proposal, and Plaintiffs responded on May 23, 2022. Thereafter, the parties have convened by phone multiple times, and the Government produced certain settlement-related data and other information to the plaintiffs on July 22, 2022. The parties participated in a settlement-related call on September 1, 2022, and the CSR Plaintiffs followed that call with a letter to the Government on September 15, 2022. The Government has since responded to Plaintiffs by letter dated November 10, 2022, the Plaintiffs responded by letter dated January 10, 2023, and the Government is currently evaluating the Plaintiffs' proposal.

The parties' resolution efforts are progressing. The parties are working together to determine whether they may efficiently resolve this matter without further litigation or can at least streamline the damages and mitigation issues in this case. The complexity of the CSR cases and the large number of interested stakeholders, necessitates that the parties be afforded additional time to complete these efforts. Pursuant to the Court's July 25 order, the parties will file a joint status report on or before March 28, 2023, to update the Court regarding the parties' progress toward settlement, at which point, if the parties have not yet reached a settlement in principle, the parties will include a detailed justification for any further continuation of the stay and propose a schedule for further proceedings.

January 27, 2023

/s/ William L. Roberts

William L. Roberts

[william.roberts@faegredrinker.com](mailto:william.roberts@faegredrinker.com)

**FAEGRE DRINKER BIDDLE & REATH LLP**

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402-3901

Telephone: (612) 766-7000

Fax: (612) 766-1600

***Counsel of Record for Plaintiff Sendero  
Health Plans, Inc.***

OF COUNSEL:

Jonathan W. Dettmann

[jon.dettmann@faegredrinker.com](mailto:jon.dettmann@faegredrinker.com)

Evelyn Snyder

[evelyn.snyder@faegredrinker.com](mailto:evelyn.snyder@faegredrinker.com)

Respectfully submitted,

BRIAN M. BOYNTON

Principal Deputy Assistant Attorney General

RUTH A. HARVEY

Director

Commercial Litigation Branch

KIRK T. MANHARDT

Deputy Director

/s/ Phillip M. Seligman

PHILLIP M. SELIGMAN

Commercial Litigation Branch

Civil Division

U.S. Department of Justice

P.O. Box 480

Ben Franklin Station

Washington, D.C. 20044

Tel. (202) 307-1105

Fax (202) 307-0494

[Phillip.seligman@usdoj.gov](mailto:Phillip.seligman@usdoj.gov)

OF COUNSEL:

DAVID M. KERR

Trial Attorney

ALBERT S. IAROSSI

Senior Trial Counsel

Civil Division

U.S. Department of Justice

***Counsel for Defendant The United States***